

REMARKS

Claims 1-29 are pending in the application. The Examiner has rejected Claims 7, 8 and 11-13 under 35 U.S.C. §102(e) as being anticipated by Gilhousen (U.S. Patent 5,751,761). The Examiner has rejected Claims 9, 10 and 14-16 under 35 U.S.C. §103(a) as being unpatentable over Gilhousen in view of Kumar et al. (U.S. Patent 6,418,148). The Examiner has rejected Claims 1-6 and 17-29 under 35 U.S.C. §103(a) as being unpatentable over Gilhousen in view of Kumar et al. and Tiedemann, Jr. et al (U.S. Patent 6,335,922).

The previous Response filed on July 6, 2004 contained an argument based on the fact that the busy list of Gilhousen does not contain only codes that cannot maintain orthogonality, but the busy list of Gilhousen contains every possible Walsh code. In the Response to Arguments section on pages 2-3 of the present Office Action, the Examiner states that the claims of the present application do not recite “only” and therefore the Examiner did not agree that the claims of the present application are distinct from Gilhousen. Independent Claims 1, 7, 12, 17, 21, 25 and 27 have been amended to include the concept that *only* orthogonal code numbers which cannot maintain orthogonality due to an orthogonal code which a circuit data user uses at a maximum data rate are stored. Based on at least the foregoing, withdrawal of the rejections of Claims 1, 7, 12, 17, 21, 25 and 27 is respectfully requested.

In addition, please note that “an” has been deleted from Claims 1, 7, 12, 17, 21, and 25 as shown for clarification purposes. No new matter has been added.

Independent Claims 1, 7, 12, 17, 21, 25 and 27 are believed to be in condition for allowance. Without conceding the patentability per se of dependent Claims 2-6, 8-11, 13-16, 18-20, 22-24, 26, 28 and 29, these are likewise believed to be allowable by virtue of their dependence on their respective amended independent claims. Accordingly, reconsideration and withdrawal of the rejections of dependent Claims 2-6, 8-11, 13-16, 18-20, 22-24, 26, 28 and 29 is respectfully requested.

Accordingly, all of the claims pending in the Application, namely, Claims 1-29, are believed to be in condition for allowance. Should the Examiner believe that a telephone conference or personal interview would facilitate resolution of any remaining matters, the Examiner may contact Applicants' attorney at the number given below.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Paul J. Farrell", written over a horizontal line.

Paul J. Farrell

Reg. No. 33,494

Attorney for Applicant

DILWORTH & BARRESE
333 Earle Ovington Blvd.
Uniondale, New York 11553
Tel: (516) 228-8484
Fax: (516) 228-8516

PJF/MJM/dr